

SJ-EXHIBIT 14

Page 1

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

IN RE: NATIONAL PRESCRIPTION MDL No. 2804
OPIATE LITIGATION

Case No. 17-md-2804

Judge Dan Aaron

This Document Relates To: Polster

The County of Lake, Ohio v.

Purdue Pharma L.P., et al.

Case No. 18-op-45032

The County of Trumbull, Ohio v.

Purdue Pharma L.P., et al.,

Case No. 18-op-45079

Track 3 Cases

December 14, 2020

9:01 a.m.

Renee L. Pellegrino, RPR, CLR
(Appearing Remotely)

Page 156

1 Eagle pharmacist, 9853 and 9855 and 57. So this
2 was an inspection of -- a full inspection where
3 you wanted follow-up, correct?

4 A. Yep, I did.

5 Q. And did you get the follow-up that
6 you wanted in writing from Pharmacist Daugherty?

7 A. Yes, I did.

8 Q. And were you satisfied with his
9 response? I guess there was an issue involving
10 a copy of a prescription that was found in the
11 copier or something. Do you recall this
12 incident?

13 A. Yes, I do, as a matter of fact.

14 Q. And did the Giant Eagle pharmacist
15 provide you the information you needed in order
16 to resolve the matter?

17 A. Yes. He provided me with a written
18 answer. As a matter of fact, he even
19 apologized. Yep, he did. I remember that
20 incident.

21 Q. You also had some follow-up requests
22 for the labeling on the third page of this
23 report. You wanted more information concerning
24 the computerized labeling?

25 A. I don't remember this part.

1 recognize Mike.

2 Q. Was Mike Madgar a cooperative
3 pharmacist?

4 A. Yes.

5 Q. Did he behave professionally in your
6 experience and provide you with investigative
7 leads?

8 A. Very good.

9 Q. The second to last inspection report
10 is on page 0766.

11 A. Okay.

12 Q. Now, there's two pink sheet items,
13 29 and 12, and there's a Giant Eagle response on
14 page 0778. Now, you wanted some documentation
15 follow-up from the Giant Eagle pharmacy at this
16 time, for example, for an inventory. You
17 couldn't find some inventory in the records?

18 A. I see it. I couldn't find it. I
19 don't recall this particular -- either one of
20 those pharmacists. I don't remember them.

21 Q. Barbara McAnany, M-C-A-N-A-N-Y, or
22 Brenton Cornwell?

23 A. I don't recall. I don't remember
24 either one of them.

25 Q. But did you -- were you satisfied

Page 164

1 with the Giant Eagle pharmacists' follow-up?

2 A. Apparently. Replied within 20
3 days. This must be it right here.

4 Q. Page 0778 is the reply?

5 A. Yes, it is.

6 Q. Were you satisfied with that reply
7 and did it resolve the items that you wanted
8 followed up on?

9 A. Must have been.

10 Q. And then the last inspection, Agent
11 Pavlich, is on page 0684 dated 12-1 of '11.
12 This is store 1419 in Warren, Ohio. Is this a
13 clean inspection?

14 A. Yes, it was clean, and I remember
15 Linda Rhodes.

16 Q. And Linda Rhodes, R-H-O-D-E-S?

17 A. Right. Good pharmacist.

18 Q. Was she cooperative with you and did
19 she provide investigative leads to you?

20 A. She was cooperative with me during
21 this inspection. Like I say, I don't recall
22 each pharmacist that ever called me, but I
23 recall her, so, and I recall nothing bad about
24 her.

25 Q. I have a few follow-up questions,

1 Q. Is it a fair statement that as far
2 as you know, based upon your inspections, that
3 Giant Eagle pharmacies met the security
4 requirements imposed by Ohio law?

5 A. Yes.

6 Q. In fact, in some ways did the Giant
7 Eagle pharmacies have better controls than those
8 required by the Ohio security requirement?

9 A. They met the standard.

10 Q. In your multiple visits to Giant
11 Eagle stores, did you ever observe in any way
12 that they were not adequately staffed with
13 professional pharmacists and pharmacy
14 technicians? Did you ever see anything that
15 caused you concern about the staffing levels?

16 A. Well, put it this way, sometimes I
17 saw pharmacy levels of dispensing that they
18 could have sure used another pharmacist in
19 there at times than be overworked and burden
20 pharmacists or couple of pharmacists that were
21 in there. But that wasn't my call. I'm just
22 giving my opinion.

23 Q. Is that something, if you observed
24 it, you would have put it in your inspection
25 reports?

1 A. No, not necessarily. That was an
2 opinion. Didn't say anything ever in a code
3 that I know of that they had to have a certain
4 number of pharmacists for a certain volume of
5 prescriptions. My sister-in-law is a
6 pharmacist also. And I would walk in stores
7 and see hundreds of prescriptions being
8 dispensed in a day and they would have one
9 pharmacist working in the store. To me, in my
10 opinion, it was extra pharmacists needed on
11 that staff, but that was my opinion.

12 Q. Are you speaking specifically of
13 some pharmacy or a Giant Eagle pharmacy? I'm
14 trying to make sure I understand.

15 A. I'm not -- I'm speaking in
16 generality because I can't recall a specific
17 location as to, oh, wow, they did a thousand
18 scripts and they had one pharmacist working
19 during an eight-hour shift. I'm just telling
20 you in general what I would see at times, and I
21 would go, man, I feel sorry for this pharmacist
22 working in here doing all of this, all of this
23 responsibility and everything with five, four,
24 three techs running around. And they're
25 responsible for all of this. They don't get

1 paid enough to do all of that in my opinion.

2 Q. I just want to make sure I
3 understand that these are some unknown
4 pharmacies in your general experience?

5 A. All pharmacies in general. All
6 pharmacies that I would walk in, I would see
7 high volumes of scripts, whether it was a chain
8 or even an independent, and I would see one
9 pharmacist trying to maintain all of this, do
10 all these records and deal with me. I know it
11 was in my head many a times saying, man, I feel
12 sorry for this pharmacist.

13 Q. But there's nothing in the code or
14 the regulations --

15 A. No.

16 Q. -- that say --

17 A. That's why it was not noted in my
18 inspection report. They filled a thousand
19 prescriptions on January 2nd and there was only
20 one pharmacist in here filling them all. There
21 was nothing noted because there was nothing in
22 the code that I can recall, administrative
23 or -- well, more administrative than anything,
24 specific to prescriptions and how many
25 pharmacists. You asked me and I'm telling you

1 what I think -- what I thought.

2 Q. Agent Pavlich, in your experience in
3 inspecting Giant Eagle pharmacies, is it a fair
4 statement that Giant Eagle pharmacies complied
5 with the manner of processing prescription
6 requirements, including the drug utilization
7 reviews that we went over earlier today?

8 A. Yes.

9 Q. Did you ever see any evidence that
10 Giant Eagle pharmacists were filling
11 illegitimate prescriptions?

12 A. Oh, I'm sure there was, but I just
13 don't recall. I mean, that was 25 years of
14 work. I just don't recall off the top of my
15 head. You'll have to be more specific.

16 Q. Were Giant Eagle pharmacies ever the
17 targets of a criminal investigation as far as
18 you know?

19 A. Giant Eagle pharmacies?

20 Q. Right.

21 A. So you're asking me whether
22 corporate was involved, and I would say no,
23 involving me.

24 Q. Is it your view that, based upon
25 your inspections of Giant Eagle pharmacies, that

1 Giant Eagle pharmacies were operating lawfully
2 at all times?

3 A. If they weren't, I would have taken
4 a case number or I would have documented it. I
5 don't recall anything specific.

6 Q. Did you ever see any evidence that
7 Giant Eagle or its pharmacists were knowingly
8 filling prescriptions that were not legitimate?

9 A. I mean, there could have been. I
10 just don't -- you're going to have to bring me
11 a specific case number or something. I'm not
12 going to say every single pharmacy I walked in
13 I never found a false prescription, I never
14 found a problem. I couldn't answer that that
15 way.

16 Q. Would you have to look at your
17 inspection reports in order to find that?

18 A. Yeah. I would have to go through
19 25 years of inspection reports and
20 investigative reports to find out if I had a
21 pharmacist in there that caused me grief.
22 Right off the top of my head I'm not thinking
23 of one.

24 Q. All right. But sitting here today,
25 can you recall ever an incident where a Giant

1 Eagle pharmacist knowingly filled a prescription
2 that was not legitimate?

3 A. I can't recall one.

4 Q. Did Giant Eagle and its pharmacists
5 actively assist you and the board with
6 anti-diversion efforts?

7 A. They did what I requested of them.

8 Q. Do you hold similar conclusions for
9 the other pharmacy Defendants, CVS, Rite-Aid
10 Walgreens and Rite-Aid? Were they generally
11 cooperative with you in your investigations?

12 A. Well, since I'm under oath, I would
13 say I had no problems with Giant Eagle, no
14 problems with CVS, no problems with Walgreens,
15 no problems with Walmart. I had some issues
16 with Rite-Aid.

17 Q. Okay. Is that in connection with
18 the Overholt Pharmacy/Dr. Franklin matter?

19 A. No. That involved -- well, for
20 one, it involved one of their supervisors,
21 who's now deceased. He used to give me a
22 little bit of trouble when I would ask for
23 things and sort of, I guess the term would be,
24 drag his feet, and he was the one that I
25 confronted the one time. And I was working a

Page 187

1 world that can consume 900 tablets in 30 days
2 of 8 milligram, not counting Methadone, all the
3 other drugs he was getting, oxycodone. There's
4 no -- I mean, as soon as I heard this, I
5 thought, oh, my God, who the hell wrote this
6 and who the hell dispensed this.

7 Q. And in your search warrant on the
8 next paragraph you state that the review
9 confirmed that Dr. Franklin authorized 15,298
10 controlled substance prescriptions during the
11 period 4-10 of '06 through 6-4 of '08, so a
12 little more than two years, these over 15,000
13 controlled substance prescriptions. Was that
14 the time window that you had narrowed your
15 investigation down to?

16 A. Yes. I couldn't remember, you
17 know, off the top of my head, but if I put it
18 in this affidavit, that's what it was.

19 Q. In your experience, is that a
20 massive amount of controlled substance
21 prescriptions?

22 A. It is in my opinion, from one
23 doctor, it is in my opinion, and this doesn't
24 count patients -- this is only at Overholt
25 Pharmacy. This doesn't count -- other

1 A. Yes. That's -- that's just above
2 Trumbull County, up there.

3 Q. I see. And Dr. Franklin was
4 specifically directing his patients to Overholt?

5 A. Right. He was -- I mean, there was
6 a Giant Eagle -- wait a minute. Let me think
7 about this. I'm pretty sure there was a Giant
8 Eagle. You came down his driveway to the main
9 street there and there was a Giant Eagle right
10 there. It was a Rite-Aid, and there was a
11 Giant Eagle up the street, or it was a
12 Rite-Aid. And they weren't really filling
13 them. I mean, they had a couple in there, a
14 few, but they caught on right away. But I
15 wasn't going to get the call because that
16 wasn't my county. Frank Bodi got the call.
17 Hey, we see some suspicious prescriptions. And
18 obviously, you know, it ended up -- I ended up
19 getting all this.

20 Q. Your search warrant in the next
21 paragraph references many pharmacists
22 questioning Dr. Franklin's prescriptions.

23 Do you see that?

24 A. No.

25 Q. On the bottom of page 5736.

1 Q. In talking to other pharmacists in
2 the area, were you able to determine that
3 pharmacists had complained about Dr. Franklin
4 for some time?

5 A. Yes.

6 Q. And were some of those pharmacists
7 from the pharmacy Defendants?

8 A. Yes.

9 Q. Do you know whether or not the
10 pharmacists were told to stop dispensing for
11 Dr. Franklin at any point in time in the
12 investigation?

13 A. Not by me. They were never told by
14 me to stop dispensing.

15 Q. Why not?

16 A. I don't know about anybody else
17 telling them to, whether it was Edwards or Bodie
18 or the Board of Pharmacy. Not by me.

19 Q. Why wouldn't you tell a pharmacist
20 to stop dispensing for Dr. Franklin if there
21 was -- if he was under investigation?

22 A. Because if they can't catch on that
23 I'm in there pulling prescriptions on
24 Dr. Franklin, that's not for me to tell them
25 what to do. Pharmacists weren't dispensing. I

1 didn't have to tell them. They were telling me
2 when I walked in and said, "I'm Agent Pavlich.
3 I'm not assigned to this county but I'm
4 investigating Dr. Franklin, and I'm here to
5 pull profiles and prescriptions on patients."
6 And they knew right then. But they weren't
7 really dispensing, those chains up there and
8 independents up there. Why do you think the
9 patients drove, you know, 50 miles down the
10 road to go to Overholt? Because they weren't
11 getting it dispensed up there. They were
12 getting it at Overholt. They were compliant.
13 I didn't charge anybody in any of those chains
14 or independents up there or anywhere else with
15 a crime, only at Overholt Pharmacy, because
16 that's where it was. There were -- in my
17 opinion, they were all compliant, because if
18 they weren't, I would have charged them,
19 period.

20 Q. Did you retain a medical expert in
21 your investigation?

22 A. Dr. Piszel, pain management doctor.

23 Q. Why did you need a medical expert?

24 A. Well, based on my college
25 education, I didn't have a medical degree, so